



# California State Board of Education Policy

POLICY #
<b>93-01</b>
DATE
<b>July 1993</b>

## WAIVER GUIDELINES

### Sale or Lease of Real Property

#### REFERENCES

Education Code Section 33050 et seq.

#### HISTORICAL NOTES

Originally adopted July 1984. Amended July 1990 and July 1993.

### **Statutory Provisions Involved**

Education Code Sections 39290 through 39545, except 39313-39325, 39360.5, and 39363.5(a). These provisions address terms and conditions for sale or lease of property, including terms of sale, use of funds, priorities of offering, notices, bidding, use of surplus school playground and recreational property, etc.

### **Background**

Waiver requests generally indicate that districts have complied with the Education Code requirements but have been unsuccessful in selling or leasing the property or that a joint venture would serve the interests of the school district and community better than the bidding process otherwise required.

### **Evaluation Guidelines**

A request to waive the bidding process for a lease or sale of surplus real property must assure that:

1. No other state code section or another agency's jurisdiction will be nullified in order for the request to become effective.
2. The request has been reviewed by a facilities advisory committee as defined in E.C. 39296.
3. The district desires to extend a lease of a facility to a satisfactory tenant who continues to meet district requirements.
4. The local governing board has determined that the parcel is too small to have any educational impact.

### **OR**

The district has either:

- a. Already followed the Education Code and has not been able to complete the sale or lease for lack of bidders; or
- b. The district desires to enter into a joint venture and agrees to the following:

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- That the Board has declared the property surplus and has considered recommendations of the site advisory committee in conformance with Education Code Section 39295-98.
- That upon granting of the waiver, the district will proceed with a joint venture partner selection process as follows:
  - i) The governing board of the district, in a regular open meeting, by a two-thirds vote of its members, shall adopt a resolution declaring its intention to enter into a joint venture. The resolution shall call for the issuance of a Request for Qualifications based on criteria set forth in the resolution. The criteria shall include, but not be limited to, a description of the property proposed to be utilized, the type of project envisioned, anticipated capital resources needed to develop the project, the type of experience needed to develop the project, and the final date for submitting qualification resumes.
  - ii) After the final submission of qualifications by the applicants, the governing board will determine, from the resumes submitted, those applicants best qualified to make a proposal to the school district for the development of the property. The governing board will announce, at a public meeting, the applicants deemed to be qualified. From those deemed qualified, the governing board will issue a Request for Proposals based on specific criteria developed by the board.
  - iii) Upon receipt of the proposals, the governing board will select the best suited applicant and will announce the selection at a public meeting. The governing board will then negotiate the final terms of an agreement for a joint venture between the school district and the private applicant and will announce the terms of the signed agreement at a public meeting.